

REMARKS

This Amendment and Response to Non-Final Office Action is being submitted in response to the non-final Office Action mailed August 20, 2008. Claims 1-12, 15-36, and 38 are pending in the Application.

Claims 1-12, 15-35, and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Sharma *et al.* (U.S. Pat. No. 6,766,165) in view of Heitman *et al.* (U.S. Pat. No. 6,920,494) in further view of Ahmed *et al.* (U.S. Pat. No. 7,158,484) in further view of Williams *et al.* (U.S. Pat. Pub. No. 20050015623), and in further view of Lewis (U.S. Pat. No. 5,636,344).

Claim 36 is rejected under 35 U.S.C. §103(a) as being unpatentable over Sharma *et al.* (U.S. Pat. No. 6,766,165) in view of Heitman *et al.* (U.S. Pat. No. 6,920,494) in further view of Ahmed *et al.* (U.S. Pat. No. 7,158,484) in further view of Williams *et al.* (U.S. Pat. Pub. No. 20050015623).

In response to these rejections, Applicants are submitting an updated declaration under 37 CFR §1.131 along with arguments. Based upon the updated declaration and the arguments presented herein, reconsideration of the Application is respectfully requested.

§103(a) Rejections – Williams *et al.*

Based on a telephone interview with Examiner, the previously submitted declaration under 37 C.F.R. §1.131 shows conception prior to Williams *et al.*, but Examiner rejects the showing of Reduction to Practice (Non-Final OA, page 25). Accordingly, Applicant is filing an updated declaration under 37 C.F.R. §1.131 herewith to establish a Reduction to Practice prior to the Williams *et al.* reference. Accordingly, based upon the 37 C.F.R. §1.131 declaration swearing behind Williams *et al.*, Applicant respectfully requests withdrawal of all §103(a) rejections.

§103(a) Rejections – Ahmed *et al.*

Applicant respectfully submits that the Ahmed *et al.* reference does not actually teach a wireless sensor configured to monitor the wireless network as recited in each of Applicant's independent Claims. Specifically, Ahmed *et al.* deal entirely with cell phone wireless networks, i.e. CDMA, TDMA, etc., not WLAN (Wireless Local Area Networks) networks (802.11) like Applicant. Also, Ahmed *et al.* fail to teach a wireless sensor, but instead utilize base stations (network nodes) to provide the sensing functionality (Ahmed *et al.*, FIGS. 1-11, col. 2, lines 35-67, col. 8, lines 10-63). The base station of Ahmed *et al.* is analogous to a Wireless Access Point (AP) in WLANs.

Applicant has amended independent Claims 1, 33, 36, and 38 to include the limitation of wherein the wireless network comprises a wireless local area network. Respectfully, Ahmed *et al.* is inapplicable to wireless local area networks (WLANs).

Examiner is relying on Ahmed *et al.* for teaching a wireless sensor (see, e.g., Non-Final OA, page 4, last paragraph). Applicant respectfully submits that Ahmed *et al.* do not teach, suggest, or disclose a wireless sensor as recited by Applicant. At best, Ahmed *et al.* teaches a wireless base station for CDMA/TDMA, i.e. cell phones. Applicants are using stand-alone WLAN sensors operating in a promiscuous mode, for example, to provide the collection of information, and not APs. This is completely different from Ahmed *et al.* For example, APs and base stations are visible to wireless devices, i.e. WLAN clients in Applicant's invention and cell-phone users in Ahmed *et al.*

The base stations in Ahmed *et al.* are akin to APs in a WLAN network, not wireless sensors as recited by Applicant. For example, both base stations and APs provide two-way communication with their respective clients while a wireless sensor is solely monitoring client communication to an AP or the like. A wireless sensor operating in a promiscuous mode is transparent to end users, and these users cannot communicate with the sensor.

Accordingly, Applicant respectfully requests Examiner reconsider the Ahmed *et al.* reference based on the amendments and remarks presented herein, and withdraw all §103(a) rejections based thereon.

CONCLUSION

Applicant would like to thank Examiner for the attention and consideration accorded the present Application. Should Examiner determine that any further action is necessary to place the Application in condition for allowance, Examiner is encouraged to contact undersigned Counsel at the telephone number, facsimile number, address, or email address provided below. It is not believed that any fees for additional claims, extensions of time, or the like are required beyond those that may otherwise be indicated in the documents accompanying this paper. However, if such additional fees are required, Examiner is encouraged to notify undersigned Counsel at Examiner's earliest convenience.

Respectfully submitted,

Date: September 9, 2008

/Lawrence A. Baratta, Jr./

Lawrence A. Baratta, Jr.

Registration No.: 59,553

Christopher L. Bernard

Registration No.: 48,234

Attorneys for Applicants

Clements | Bernard | Miller

1901 Roxborough Road, Suite 300

Charlotte, North Carolina 28211 USA

Telephone: 704.366.6642

Facsimile: 704.366.9744

lbaratta@worldpatents.com